

EXHIBIT 84

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

THE PHILLIES, a
Pennsylvania limited
partnership,

Plaintiff,

-vs-

HARRISON/ERICKSON,
INCORPORATED, a New York
corporation, HARRISON
ERICKSON, a partnership,
and WAYDE HARRISON and
BONNIE ERICKSON,

Defendants.

Civil Action No. 19-7239

5 JAMISON CIRCLE
WEST GROVE, PENNSYLVANIA 19390
APRIL 14, 2020
10:26 A.M.

****CONFIDENTIAL****
VIDEOTAPED-TELEPHONIC DEPOSITION
TAKEN REMOTELY VIA
VIDEOCONFERENCE AND TELECONFERENCE
OF
DAVID G. RAYMOND

REPORTED BY:

DEBRA SAPIO LYONS, RDR, CRR, CRC, CCR, CLR, CPE

JOB NO. 179345

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<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 April 14, 2020</p> <p>6 Videotaped-telephonic deposition, taken</p> <p>7 remotely via videoconference and teleconference,</p> <p>8 of David G. Raymond, located at 5 Jamison Circle,</p> <p>9 West Grove, Pennsylvania 19390, by Debra Sapio</p> <p>10 Lyons, a Registered Diplomat Reporter, a</p> <p>11 Certified Realtime Reporter, a Certified Realtime</p> <p>12 Captioner, a Certified LiveNote Reporter, an</p> <p>13 Approved Reporter of the United States District</p> <p>14 Court for the Eastern District of Pennsylvania, a</p> <p>15 Certified Court Reporter of the State of New</p> <p>16 Jersey, and a Notary Public of the States of New</p> <p>17 Jersey, New York and the Commonwealth of</p> <p>18 Pennsylvania.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2 (All Counsel and Participants</p> <p>3 present via videoconference and</p> <p>4 teleconference due to COVID-19</p> <p>5 Restrictions.)</p> <p>6 DUANE MORRIS</p> <p>7 BY: DAVID WOLFSOHN, ESQUIRE</p> <p>8 TYLER MARANDOLA, ESQUIRE</p> <p>9 30 South 17th Street</p> <p>10 Philadelphia, Pennsylvania 19103</p> <p>11 Attorneys for Plaintiff</p> <p>12</p> <p>13 MITCHELL SILBERBERG & KNUPP</p> <p>14 BY: PAUL MONTCLARE, ESQUIRE</p> <p>15 ELAINE NGUYEN, ESQUIRE</p> <p>16 LEO LICHTMAN, ESQUIRE</p> <p>17 437 Madison Avenue</p> <p>18 New York, New York 10022</p> <p>19</p> <p>20 AND</p> <p>21 BY: MATTHEW WILLIAMS, ESQUIRE</p> <p>22 1818 N Street N.W.</p> <p>23 Washington, DC 20036</p> <p>24 Attorneys for Defendants</p> <p>25</p> <p>26 ALSO PRESENT:</p> <p>27</p> <p>28 ROBERT RINKEWICH, VIDEOGRAPHER</p> <p>29 TSG REPORTING, INC.</p> <p>30</p>
<p style="text-align: right;">Page 4</p> <p>1 Confidential - David G. Raymond</p> <p>2 THE VIDEOGRAPHER: Good morning,</p> <p>3 Counselors. My name is Robert Rinkewich.</p> <p>4 I am the legal videographer in association</p> <p>5 with TSG Reporting, Inc. Due to the</p> <p>6 severity of the COVID-19 and following the</p> <p>7 practice of social distancing, I will not</p> <p>8 be in the same room with the witness, but</p> <p>9 will record this videotaped deposition</p> <p>10 remotely.</p> <p>11 The reporter, Debra Lyons, also will</p> <p>12 not be in the same room and will swear in</p> <p>13 the witness remotely.</p> <p>14 Do all parties stipulate to the</p> <p>15 validity of this video recording and remote</p> <p>16 swearing and that it will be admissible in</p> <p>17 the courtroom as if it had been taken</p> <p>18 following Rule 30 and other rules of the</p> <p>19 Federal Rules of Civil Procedures?</p> <p>20 MR. MONTCLARE: On behalf of the</p> <p>21 Defendants, Paul Montclare, I agree,</p> <p>22 stipulate.</p> <p>23 MR. WOLFSOHN: And on behalf of The</p> <p>24 Phillies, we agree.</p> <p>25 THE VIDEOGRAPHER: Okay. Thank you.</p>	<p style="text-align: right;">Page 5</p> <p>1 Confidential - David G. Raymond</p> <p>2 This is the start of Media Labeled</p> <p>3 Number 1 of the video-recorded deposition</p> <p>4 of David Raymond in the matter of The</p> <p>5 Phillies, et al., versus Harrison/Erickson</p> <p>6 Incorporated, et al. in the United States</p> <p>7 District Court for the Southern District of</p> <p>8 New York.</p> <p>9 This deposition is being taken</p> <p>10 telephonically and streamed on April 14th,</p> <p>11 2020 at approximately 10:27 a.m.</p> <p>12 My name is Robert Rinkewich. I am</p> <p>13 the legal video specialist from TSG</p> <p>14 Reporting, Inc. headquartered at 747 Third</p> <p>15 Avenue, New York, New York. The court</p> <p>16 reporter is Debra Lyons in association with</p> <p>17 TSG Reporting.</p> <p>18 Counsel, please, introduce</p> <p>19 yourselves.</p> <p>20 MR. MONTCLARE: Yes. My name is</p> <p>21 Paul Montclare. I represent Harrison</p> <p>22 Erickson.</p> <p>23 MR. WOLFSOHN: And this is David</p> <p>24 Wolfsohn represent --</p> <p>25 MR. WILLIAMS: Matthew Williams also</p>

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<p style="text-align: right;">Page 54</p> <p>1 Confidential - David G. Raymond</p> <p>2 Q. I'm sorry.</p> <p>3 A. It was 41 years ago. It was a</p> <p>4 long time, yes.</p> <p>5 Q. Okay. Do you remember Harrison</p> <p>6 Erickson asking you to try the costume on</p> <p>7 and to -- and to move around in -- in it so</p> <p>8 you got used to how it feels when you're</p> <p>9 moving in it at this period of time between</p> <p>10 the first fitting and April 25th, 1978?</p> <p>11 A. No. To -- to my first</p> <p>12 recollection, the first time I saw the costume</p> <p>13 and tried it on was in -- on the morning of</p> <p>14 the 25th of April.</p> <p>15 Q. That's the best of your</p> <p>16 recollection?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did -- did either -- I'll</p> <p>19 call them Bonnie and Wayde. Do you know who</p> <p>20 I'm talking about?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Okay. Did either Bonnie or Wayde</p> <p>23 tell you what kind of a character it is that</p> <p>24 they wanted this mascot to be?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 55</p> <p>1 Confidential - David G. Raymond</p> <p>2 MR. WOLFSOHN: Objection to form.</p> <p>3 THE WITNESS: They did not.</p> <p>4 BY MR. MONTCLARE:</p> <p>5 Q. You don't -- and you don't recall</p> <p>6 anything being said about standing in front of</p> <p>7 a mirror or practicing or doing anything else?</p> <p>8 MR. WOLFSOHN: Objection, compound.</p> <p>9 THE WITNESS: I got --</p> <p>10 Okay.</p> <p>11 COURT REPORTER: Please repeat your</p> <p>12 answer.</p> <p>13 BY MR. MONTCLARE:</p> <p>14 Q. You can answer.</p> <p>15 A. I got no direction at all from</p> <p>16 anyone other than Bill Giles.</p> <p>17 Q. That -- you're not -- you have a</p> <p>18 clear recollection you were only there once</p> <p>19 and you had no other conversation with her,</p> <p>20 but, you know, take off your clothes and let</p> <p>21 me measure you?</p> <p>22 A. That's my recollection. That is</p> <p>23 my testimony. That is my recollection.</p> <p>24 Q. Is it possible you forgot</p> <p>25 something 40 -- that happened 41 years ago at</p>
<p style="text-align: right;">Page 56</p> <p>1 Confidential - David G. Raymond</p> <p>2 this meeting?</p> <p>3 A. Maybe, but that's my recollection.</p> <p>4 On the record, that was my recollection.</p> <p>5 Q. Okay.</p> <p>6 MR. MONTCLARE: Okay. We're going</p> <p>7 to mark next is -- is a document that's</p> <p>8 been previously marked in the Burgoyne</p> <p>9 deposition as Burgoyne-6.</p> <p>10 I would ask, Elaine, please put that</p> <p>11 up when she can.</p> <p>12 MS. NGUYEN: Sure. One second.</p> <p>13 MR. MONTCLARE: Thank you.</p> <p>14 (Exhibit Burgoyne-6, multipage</p> <p>15 document titled Team Handbook bearing Bates</p> <p>16 Numbers PHAN0005543 through PHAN0005567,</p> <p>17 was previously marked for identification.)</p> <p>18 MR. MONTCLARE: That's document</p> <p>19 Number 5 on your list, Elaine.</p> <p>20 MS. NGUYEN: Yep. It's just</p> <p>21 loading.</p> <p>22 MR. MONTCLARE: Okay. Is it ready</p> <p>23 for the witness, Elaine?</p> <p>24 MS. NGUYEN: Yes, it is.</p> <p>25 THE WITNESS: I can see it. I can</p>	<p style="text-align: right;">Page 57</p> <p>1 Confidential - David G. Raymond</p> <p>2 see it.</p> <p>3 BY MR. MONTCLARE:</p> <p>4 Q. Okay. Thank you. This document,</p> <p>5 it -- it has -- on the first page it says,</p> <p>6 "Team Handbook," and it has Harrison Erickson</p> <p>7 95 Fifth Avenue. Do you see that?</p> <p>8 A. Wait -- wait a minute. I just --</p> <p>9 I -- hold on. Let me just slide the whole --</p> <p>10 Q. On the very first -- okay.</p> <p>11 A. Yeah, yeah.</p> <p>12 Q. On the very first page.</p> <p>13 A. Uh-huh.</p> <p>14 Q. Okay. And I just want you to know</p> <p>15 that this is -- was marked in -- in</p> <p>16 Mr. Burgoyne's deposition back in February.</p> <p>17 There's an address under Harrison</p> <p>18 Erickson, 95 Fifth Avenue. Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. And is that the place where you</p> <p>21 went to see them?</p> <p>22 A. I -- I -- I don't -- I don't know</p> <p>23 for sure. I -- I just know that I went to a</p> <p>24 studio when I went there.</p> <p>25 Q. Okay. And you said that there</p>

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2 to probe a little bit of some of the things in
3 that very long answer which makes it difficult
4 to unpack. So I don't -- that's why we ask
5 questions and try to get answers in response
6 to questions.

7 But you -- you -- I believe you
8 said that you recounted this story numerous
9 times. How many times have you recounted this
10 story?

11 A. An awful lot. It's in my book.

12 Q. And when was the last -- it's your
13 in your book.

14 And that -- when did you write
15 that book?

16 A. It was published about --
17 self-published about two years ago. A little,
18 little bit over two years, but I -- but I was
19 writing it for three or four years.

20 Q. Okay. Other than in that book,
21 did you ever write this down anyplace else,
22 this story that you just told us?

23 A. No, but I recounted it many times
24 in interviews over the years, dozens and
25 dozens --

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2 That's what I'm saying, that that --

3 Q. How many -- and -- okay. Sorry.
4 We can't -- I'm talking over you. I don't
5 mean to.

6 Are you finished?

7 A. Yeah.

8 Q. The -- do you recall outside of
9 giving these statements to various media
10 about -- did you tell this whole story to all
11 these different media groups about how you
12 were frustrated and how you felt like, you
13 know, you were something, a Darwin or
14 something and then somebody said in the
15 background, and you can't remember,
16 Galapagos -- the Galapagos?

17 Do you remember ever telling that
18 to any reporter anywhere?

19 A. Oh, yes. Oh, yes. And I -- and I
20 should say that when you're -- when you're
21 interviewed, just like I was interviewed for
22 Real Sports up in New York, for HBO's Real
23 Sports, they interviewed me for three hours,
24 my segment was 15 minutes. So I can say with
25 great certainty that probably 75 percent of my

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2 Q. To who?

3 A. -- and dozens.

4 Q. To who?

5 A. To --

6 Q. To who?

7 A. -- CBS, NBC, ABC, Fox, podcasts,
8 The Washington Post, New York Times. And --
9 and whether they -- whether they would print
10 that or not, it was always part of the story.

11 Do a Google search. You'll find
12 those, Paul.

13 Q. Yeah, I'm just trying to ask you
14 how many times you recounted that story. But
15 you said every time you have a -- an interview
16 you recounted this story about the Galapagos
17 Islands thing?

18 A. Very, very frequently. The
19 discussion about the building the personality
20 and creating the personality, what were my
21 challenges; and that was one of my challenges
22 that I talked about frequently.

23 Q. I'm just trying to focus on the
24 Galapagos Islands thing.

25 A. That's -- that's what I'm saying.

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2 interviews I would talk about that story.

3 Now, whether they printed it or specifically
4 told the story the way I would tell them,
5 which in the media you're not in control, the
6 editors are, but I would say two-thirds of the
7 interviews that discussion about the Phanatic
8 being from the Galapagos, it -- it came up in
9 conversations.

10 Paul, we went to the Galapagos
11 Islands because of that backstory. And the
12 reason why The Phillies were -- were connected
13 by Lindblad Travel, which ran the Galapagos
14 Islands trip, they reached me because of an
15 article that was written about me in the
16 alumni magazine of William and Mary College
17 where I was working with their character. And
18 I told that story about the Phanatic being
19 from the Galapagos Islands and a -- and a
20 former graduate who worked for Lindblad Travel
21 contacted me and said, "I'm interested to hear
22 the Phanatic is from the Galapagos Islands
23 because I run Lindblad Travels and we'd like
24 to have a Phillies or Phanatic-themed trip to
25 the Galapagos Islands." So, yeah --

<p style="text-align: right;">Page 86</p> <p>1 Confidential - David G. Raymond</p> <p>2 Q. Okay.</p> <p>3 A. -- yes, all the time.</p> <p>4 Q. All right.</p> <p>5 A. I -- I consistently told the story</p> <p>6 ever since the beginning of the -- of the</p> <p>7 Phanatic's birth.</p> <p>8 Q. Okay. Are there any other</p> <p>9 writings where you wrote this down?</p> <p>10 A. Now, I'm -- I'm sure that I</p> <p>11 probably have written it somewhere, but I</p> <p>12 don't -- I can't tell you exactly where that</p> <p>13 would be. It was -- it was all -- all in</p> <p>14 these interviews, you know, from -- from --</p> <p>15 from 1978 until today, I still get interviewed</p> <p>16 about this.</p> <p>17 Q. Did you ever tell Chris Long that</p> <p>18 you invented this Galapagos Islands</p> <p>19 background?</p> <p>20 A. I know that I told it in</p> <p>21 Phillies -- I mean, I'm -- I'm -- I'm friends</p> <p>22 with all the people at the Phillies still</p> <p>23 today, so I know I've mentioned it. It's</p> <p>24 possible that I told it to -- to Chrissy.</p> <p>25 I'm -- I'm -- I'm sure that in some way,</p>	<p style="text-align: right;">Page 87</p> <p>1 Confidential - David G. Raymond</p> <p>2 shape, or form it was discussed because the --</p> <p>3 you know, they -- they -- they've leveraged</p> <p>4 that story for the Phanatic and his backstory.</p> <p>5 Q. Did you tell it to Mr. Giles?</p> <p>6 A. I -- I don't recall whether I</p> <p>7 specifically told Mr. Giles.</p> <p>8 Q. Did you tell it to Mr. Sullivan?</p> <p>9 A. I -- I most likely mentioned it to</p> <p>10 him, yes, because he -- he was -- he became my</p> <p>11 good friend and I -- I pretty much told him</p> <p>12 everything.</p> <p>13 Q. Could it be that he mentioned it</p> <p>14 to you, the Galapagos Island?</p> <p>15 A. No, no.</p> <p>16 Q. Okay. Let's keep going. We've</p> <p>17 been going for about an hour and -- almost two</p> <p>18 hours -- I mean an hour and a half today. How</p> <p>19 are you doing?</p> <p>20 A. I'm perfectly fine. I could</p> <p>21 get -- I could -- we -- we could take a quick</p> <p>22 break. I could use the -- the men's room and</p> <p>23 get some more water.</p> <p>24 MR. MONTCLARE: All right. So why</p> <p>25 don't we come back at a quarter after. Is</p>
<p style="text-align: right;">Page 88</p> <p>1 Confidential - David G. Raymond</p> <p>2 that okay with you? It's about 20 minutes</p> <p>3 from now.</p> <p>4 THE WITNESS: That's fine with me.</p> <p>5 MR. MONTCLARE: All right. Thank</p> <p>6 you very much.</p> <p>7 THE WITNESS: Thank you.</p> <p>8 THE VIDEOGRAPHER: The time is</p> <p>9 11:55 a.m. This is the end of Media</p> <p>10 Number 1. We're off the record.</p> <p>11 (A recess is held from 11:55 a.m. to</p> <p>12 12:20 p.m.)</p> <p>13 THE VIDEOGRAPHER: The time is</p> <p>14 12:21 p.m. This is the start of Media</p> <p>15 Number 2. We're on the record.</p> <p>16 BY MR. MONTCLARE:</p> <p>17 Q. All right. Welcome back,</p> <p>18 Mr. Raymond.</p> <p>19 A. Thank you.</p> <p>20 MR. MONTCLARE: Just so -- a little</p> <p>21 housekeeping. I think what we'll do if</p> <p>22 everybody is okay with that, is -- is to go</p> <p>23 to 1 o'clock and then take a half-hour for</p> <p>24 lunch because we're not going to finish any</p> <p>25 time soon. I'm asking everybody else. I</p>	<p style="text-align: right;">Page 89</p> <p>1 Confidential - David G. Raymond</p> <p>2 just -- we can just -- just wanted to give</p> <p>3 everybody a heads up.</p> <p>4 BY MR. MONTCLARE:</p> <p>5 Q. You recognize that you're still</p> <p>6 under oath, correct, Mr. Raymond?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. It was your</p> <p>9 understanding --</p> <p>10 COURT REPORTER: This is the court</p> <p>11 reporter. I'm not hearing anything.</p> <p>12 MR. WOLFSOHN: Yeah, I'm not hearing</p> <p>13 him either.</p> <p>14 MR. MONTCLARE: Okay. You can't</p> <p>15 hear me? Okay. You can't hear me?</p> <p>16 THE WITNESS: Now, we can.</p> <p>17 MR. WOLFSOHN: Now, we can.</p> <p>18 MR. MONTCLARE: Yeah, I don't know</p> <p>19 what that's all about. That was -- can you</p> <p>20 hear me now?</p> <p>21 MR. WOLFSOHN: Yes.</p> <p>22 COURT REPORTER: Yes, and I would</p> <p>23 ask you to keep the mic closer to you.</p> <p>24 MR. MONTCLARE: Okay. All right.</p> <p>25 Did you hear my question?</p>

<p style="text-align: right;">Page 106</p> <p>1 Confidential - David G. Raymond</p> <p>2 Q. Okay. So just -- so you -- you</p> <p>3 looked to inspiration in comedy. I think you</p> <p>4 said it was a -- a mash up, but you mentioned</p> <p>5 slapstick. That's what -- that's how you</p> <p>6 would describe your act, slapstick?</p> <p>7 A. I think it was a portion of the</p> <p>8 work was slapstick, yes.</p> <p>9 Q. And sort of taking your</p> <p>10 inspiration from cartoon characters that you</p> <p>11 mentioned and The Three Stooges?</p> <p>12 A. That's correct, as well -- yeah,</p> <p>13 as well as live performance.</p> <p>14 Q. Did you ever record any of your</p> <p>15 routines in 1978?</p> <p>16 A. If they were recorded by -- by</p> <p>17 some outlets and I didn't -- and I didn't do</p> <p>18 specific routines, I was -- not in the early</p> <p>19 going until we started having fun with the</p> <p>20 ground crew, but there -- there are -- there's</p> <p>21 video, you know, you can go on YouTube and I</p> <p>22 found an old video from -- from the --</p> <p>23 probably '79, maybe '80 of the Phanatic</p> <p>24 running around the bases with the ground crew,</p> <p>25 so there had been recordings.</p>	<p style="text-align: right;">Page 107</p> <p>1 Confidential - David G. Raymond</p> <p>2 I didn't start looking at my</p> <p>3 recordings until I was doing commercials for</p> <p>4 The Phillies. And then I -- I was asked by a</p> <p>5 director if I could -- if I wanted to see the</p> <p>6 videotape because this was back in, you know,</p> <p>7 the -- the late '70s, early '80s when no one</p> <p>8 had, you know, videos just in their hands. So</p> <p>9 I started watching videos of myself probably</p> <p>10 within the next couple of years when I was</p> <p>11 doing commercials for The Phillies and I had</p> <p>12 an opportunity to do the work and then sit</p> <p>13 down and watch it on videotape. And I</p> <p>14 recognized that that was very, very helpful</p> <p>15 for me to do and I tried as much as I could to</p> <p>16 watch myself on videotape after that.</p> <p>17 Q. Let me ask you: Did you ever have</p> <p>18 someone tape something for you specifically?</p> <p>19 A. Eventually in my career, sure.</p> <p>20 Q. When was the first time?</p> <p>21 A. I think the first time was when I</p> <p>22 did commercials and -- and I found out that</p> <p>23 they specifically were allowing me to look at</p> <p>24 my work. So I would do a particular scene and</p> <p>25 then they would say, "Do you want to see it,</p>
<p style="text-align: right;">Page 108</p> <p>1 Confidential - David G. Raymond</p> <p>2 what it looks like?" And that was probably</p> <p>3 the first time.</p> <p>4 And then from then on, I'm</p> <p>5 sure that --</p> <p>6 Q. When was that? Just give me a</p> <p>7 date.</p> <p>8 A. I'm guessing it was probably 1980,</p> <p>9 '81. That -- that's my guess. It could have</p> <p>10 been sooner, but I'm not certain.</p> <p>11 Q. Did you ever register a copyright</p> <p>12 for anything that you wrote down or had</p> <p>13 filmed?</p> <p>14 A. No.</p> <p>15 Q. Did you have any agreements with</p> <p>16 The Phillies?</p> <p>17 A. No.</p> <p>18 I'd just -- I'd like to add one</p> <p>19 thing that I thought. I had -- eventually I</p> <p>20 had a written agreement with The Phillies for</p> <p>21 my employment, but I -- I didn't have any</p> <p>22 copyright or any routines that were</p> <p>23 copyrighted and -- none of that.</p> <p>24 Q. When did you have that written</p> <p>25 agreement with The Phillies?</p>	<p style="text-align: right;">Page 109</p> <p>1 Confidential - David G. Raymond</p> <p>2 A. It was prob -- the first one was</p> <p>3 probably in -- in the early to mid-'80s.</p> <p>4 Q. Do you have that on your -- do you</p> <p>5 have that anywhere in your files, sir?</p> <p>6 A. No, I -- I never -- I never had</p> <p>7 those and kept them. I -- you know, it was</p> <p>8 something that was drawn up by Dave</p> <p>9 Montgomery.</p> <p>10 Q. Do you remember the terms of that</p> <p>11 agreement in general?</p> <p>12 A. Yeah, in general they were</p> <p>13 approximately three years in length and they</p> <p>14 included a salary that was benefit -- and --</p> <p>15 and it included benefits.</p> <p>16 Q. Okay. And how long were you</p> <p>17 employed by The Phillies?</p> <p>18 A. I -- well, from intern in '76</p> <p>19 until early in '94. I was -- I was still</p> <p>20 retained as a -- as a consultant to help the</p> <p>21 transition between me as the main performer</p> <p>22 and Tom Burgoyne.</p> <p>23 Q. Were you under a -- you had an</p> <p>24 agreement to be a consultant sometime towards</p> <p>25 the end of 1994?</p>

<p style="text-align: right;">Page 178</p> <p>1 Confidential - David G. Raymond</p> <p>2 the Phanatic. They -- they -- you know, it</p> <p>3 would be a Phanatic with changes, not -- and</p> <p>4 that we -- we discussed the three options</p> <p>5 could be. We -- this was just -- I threw this</p> <p>6 out as a discussion topic to get everybody</p> <p>7 talking. I go, "We could create a brand new</p> <p>8 character. We could create a unicorn that was</p> <p>9 going to be The Phillies new mascot or we</p> <p>10 could create a drastically different Phanatic</p> <p>11 or we could create a Phanatic that had</p> <p>12 changes." And -- and then that's when I said,</p> <p>13 "What don't you want to do?"</p> <p>14 And everyone said, "Well, we don't</p> <p>15 want a unicorn." And -- and that term was</p> <p>16 specifically used. There was a lot of</p> <p>17 discussion to be clear that what we wanted</p> <p>18 was, you know, perpetual look of surprise</p> <p>19 and -- and a rotund, roly-poly Phanatic with</p> <p>20 changes.</p> <p>21 So -- so just to be clear, I</p> <p>22 wanted to know where we were going. And then</p> <p>23 we -- we started talking about backstory</p> <p>24 pieces. And, you know, and -- and, you know,</p> <p>25 tried to come up with our -- our -- our -- our</p>	<p style="text-align: right;">Page 179</p> <p>1 Confidential - David G. Raymond</p> <p>2 options for backstories that people liked.</p> <p>3 And then we clearly defined three</p> <p>4 guiding principles as some of our goals that</p> <p>5 the changes that we were to make needed to be</p> <p>6 creative, fun, or funny. We needed to be able</p> <p>7 to build them so they would last. And,</p> <p>8 finally, we didn't want it to be a liability</p> <p>9 on the performer.</p> <p>10 So as a -- as a silly exercise I</p> <p>11 said, "If we said, okay, we want the Phanatic</p> <p>12 to fly, we're going to build him a rocket pack</p> <p>13 and that would be very expensive and -- and we</p> <p>14 could invest in that, but it would be</p> <p>15 incredibly expensive because rocket fuel is</p> <p>16 expensive." I used this as an illustration.</p> <p>17 And everybody -- and so people understood,</p> <p>18 okay. And that's what got us into the</p> <p>19 discussion about what we didn't want and the</p> <p>20 criteria that we were going to impose upon the</p> <p>21 changes that we would make, and the backstory</p> <p>22 was the first step in that process.</p> <p>23 Q. Were there's -- was there any</p> <p>24 discussion in that meeting related to this</p> <p>25 litigation that you're testifying in?</p>
<p style="text-align: right;">Page 180</p> <p>1 Confidential - David G. Raymond</p> <p>2 A. There wasn't --</p> <p>3 MR. WOLFSOHN: Objection. The</p> <p>4 litigation wasn't even filed then, so...</p> <p>5 THE WITNESS: We -- we all said we</p> <p>6 didn't want to be there. No one was really</p> <p>7 excited about the work. And I tried to get</p> <p>8 everybody's attitude, like, well, this will</p> <p>9 be fun. You know, let's give it a whirl.</p> <p>10 Let's have some fun with it.</p> <p>11 BY MR. MONTCLARE:</p> <p>12 Q. I'm sorry. I missed your answer.</p> <p>13 Nobody really wanted to do what?</p> <p>14 I -- I didn't hear you.</p> <p>15 A. No one really wanted to be there.</p> <p>16 We -- it -- it -- it would be to everybody's</p> <p>17 interest that we would just have the Phanatic</p> <p>18 as the Phanatic as we knew the Phanatic, that</p> <p>19 would be nice, but it didn't look like we were</p> <p>20 going to -- we would need to prepare for the</p> <p>21 possibility that we couldn't have the</p> <p>22 Phanatic. So I needed to kind of rally them</p> <p>23 up and say, "Look, we'll have some fun. Let's</p> <p>24 have some fun. Let's enjoy our work together</p> <p>25 and not worry about, you know, whether we have</p>	<p style="text-align: right;">Page 181</p> <p>1 Confidential - David G. Raymond</p> <p>2 to do this or not. Let's just -- let's just</p> <p>3 do the work."</p> <p>4 Q. And what was your compensation for</p> <p>5 your work?</p> <p>6 A. I'd have to look. I think it was</p> <p>7 19,000 and it included all of our time and all</p> <p>8 of the design work and -- and -- and then</p> <p>9 the -- and then the -- the build would be</p> <p>10 separate once we got to the build. And that</p> <p>11 included my management of the build as well,</p> <p>12 where I would have to manage Randy as opposed</p> <p>13 to just turning Randy over to The Phillies to</p> <p>14 do the work because it's my experience, and</p> <p>15 Randy agrees, that we work better together in</p> <p>16 that form. So from start to finish it was</p> <p>17 \$19,000.00.</p> <p>18 Q. And -- and Randy is Mr. Carfagno?</p> <p>19 A. Yeah.</p> <p>20 Q. And did it include Mr. Sapp's work</p> <p>21 as well?</p> <p>22 A. It did.</p> <p>23 Q. Was there a -- a next step part of</p> <p>24 this meeting, who would do what next?</p> <p>25 A. Yeah, we -- they -- I wanted them</p>

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<p style="text-align: right;">Page 234</p> <p>1 Confidential - David G. Raymond</p> <p>2 BY MR. MONTCLARE:</p> <p>3 Q. Okay. Let's deal with the</p> <p>4 face-to-face meeting. Where was that meeting</p> <p>5 and who was at it?</p> <p>6 A. I believe it was at Citizens Bank</p> <p>7 Park, and it was with myself and Tom Burgoyne.</p> <p>8 Q. And when was that?</p> <p>9 A. I -- I'm not certain. It was --</p> <p>10 it was in 2019, but I can't tell you exactly</p> <p>11 when it was. It was -- it was earlier in the</p> <p>12 process than later.</p> <p>13 Q. Was there anyone else at this</p> <p>14 meeting besides the three of you?</p> <p>15 A. No.</p> <p>16 Q. And what was the subject of that,</p> <p>17 that meeting?</p> <p>18 A. It was just about, you know, P2</p> <p>19 and how we were doing --</p> <p>20 MR. WOLFSOHN: You can discuss it --</p> <p>21 you can discuss -- you can discuss it at a</p> <p>22 high level. That was a meeting to prepare</p> <p>23 for the depositions of both of you, but you</p> <p>24 can describe the general subject matter</p> <p>25 without going into detail.</p>	<p style="text-align: right;">Page 235</p> <p>1 Confidential - David G. Raymond</p> <p>2 THE WITNESS: Yeah, it was -- it</p> <p>3 was --</p> <p>4 MR. MONTCLARE: That's hours of</p> <p>5 testimony.</p> <p>6 THE WITNESS: It -- it was about</p> <p>7 the, you know, the -- the lawsuit and</p> <p>8 the -- and the fight and what we were doing</p> <p>9 to prepare for that fight; and in those</p> <p>10 terms, that's what we discussed. And it</p> <p>11 was -- it was the only time that I met face</p> <p>12 to face with Mr. Wolfsohn.</p> <p>13 BY MR. MONTCLARE:</p> <p>14 Q. Did you consider his lawyer -- him</p> <p>15 as your lawyer at that time?</p> <p>16 MR. WOLFSOHN: In connection --</p> <p>17 THE WITNESS: I just considered --</p> <p>18 MR. WOLFSOHN: -- with preparation</p> <p>19 for the deposition?</p> <p>20 THE WITNESS: Yeah, I mean, he</p> <p>21 was -- he was a lawyer that was working on</p> <p>22 this case. That's the way I saw it.</p> <p>23 BY MR. MONTCLARE:</p> <p>24 Q. Did you consider him your lawyer</p> <p>25 at this meeting?</p>
<p style="text-align: right;">Page 236</p> <p>1 Confidential - David G. Raymond</p> <p>2 A. I -- I know that The Phillies</p> <p>3 had a -- had an attorney that was working on</p> <p>4 this and I was involved in the case, so I --</p> <p>5 to that regard, I'm -- I'm assuming he's my</p> <p>6 lawyer. He's my lawyer here today, so it was</p> <p>7 in that capacity I'm -- yes.</p> <p>8 Q. So he was preparing two witnesses</p> <p>9 at the same time in the same room?</p> <p>10 A. I -- I -- I don't know -- we were</p> <p>11 just discussing the -- the work with the, you</p> <p>12 know, with the --</p> <p>13 MR. WOLFSOHN: Don't go into the</p> <p>14 details.</p> <p>15 THE WITNESS: -- the lawsuit.</p> <p>16 BY MR. MONTCLARE:</p> <p>17 Q. And this was sometime in 2019 you</p> <p>18 said?</p> <p>19 A. I believe so.</p> <p>20 Q. And just so I'm clear, there was</p> <p>21 never any written retainer agreement that you</p> <p>22 had with Mr. Wolfsohn, is there?</p> <p>23 A. I -- I do not. I don't have a</p> <p>24 documentation, no.</p> <p>25 Q. And he never asked you to sign a</p>	<p style="text-align: right;">Page 237</p> <p>1 Confidential - David G. Raymond</p> <p>2 retainer or -- or give you the terms of a</p> <p>3 retainer orally, did he?</p> <p>4 A. No, I don't -- don't have that</p> <p>5 documentation, no.</p> <p>6 Q. Did you consider him your lawyer</p> <p>7 or The Phillies' lawyer at this meeting?</p> <p>8 A. I considered -- I considered him a</p> <p>9 lawyer that The Phillies had retained to -- to</p> <p>10 be the attorney for this matter, of which I</p> <p>11 was a part.</p> <p>12 Q. Did you -- aside from preparing</p> <p>13 for depositions, did you discuss the work that</p> <p>14 you were doing in connection with the design</p> <p>15 of P2?</p> <p>16 A. No. I -- I was certainly aware</p> <p>17 that lawyers were on the -- on the other side</p> <p>18 of it, but I -- we were not consulting lawyers</p> <p>19 during our work, no.</p> <p>20 Q. And at that time you had already</p> <p>21 been retained by The Phillies as an outside</p> <p>22 consultant?</p> <p>23 A. I believe so. During the same</p> <p>24 time, I believe it was a similar time frame,</p> <p>25 yes. I can't be certain, but I -- I believe</p>